

Translation

PATENT COOPERATION TREATY

PCT/EP2003/009092



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

|   |   |  |
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| Applicant's or agent's file reference<br>P03756/WO/1  | <b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) |  |
| International application No.<br>PCT/EP2003/009092  | International filing date ( <i>day/month/year</i> )<br>16 August 2003 (16.08.2003)  | Priority date ( <i>day/month/year</i> )<br>23 August 2002 (23.08.2002) |
| International Patent Classification (IPC) or national classification and IPC<br>E05F 15/12, 15/00 |   |  |
| Applicant<br>DAIMLERCHRYSLER AG   |   |  |

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| <p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>3</u> sheets.</p>   |  |
| <p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p> |  |

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| Date of submission of the demand<br>12 February 2004 (12.02.2004) | Date of completion of this report<br>28 December 2004 (28.12.2004) |
| Name and mailing address of the IPEA/EP<br><br>Facsimile No.      | Authorized officer<br><br>Telephone No.                            |

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/009092

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
 pages \_\_\_\_\_ 2-15 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_ 1, 1a \_\_\_\_\_, filed with the letter of \_\_\_\_\_ 29 November 2004 (29.11.2004)
- ☒ the claims:  
 pages \_\_\_\_\_ 4 (partly), 5-30 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_ 1-3, 4 (partly) \_\_\_\_\_, filed with the letter of \_\_\_\_\_ 29 November 2004 (29.11.2004)
- ☒ the drawings:  
 pages \_\_\_\_\_ 1/4-4/4 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

- These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:
- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/09092

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

## 1. Statement

|                               |        |                       |     |
|-------------------------------|--------|-----------------------|-----|
| Novelty (N)                   | Claims | 4, 5, 7-15, 24, 26-30 | YES |
|                               | Claims | 1-3, 6, 16-23, 25     | NO  |
| Inventive step (IS)           | Claims | 9-15                  | YES |
|                               | Claims | 1-8, 16-30            | NO  |
| Industrial applicability (IA) | Claims | 1-30                  | YES |
|                               | Claims |                       | NO  |

## 2. Citations and explanations

## 1. Reference is made to the following documents:

- D1: WO-A-02/27133 (INTIER AUTOMOTIVE CLOSURES INC;  
OBERHEIDE G CLARKE (US)) 4 April 2002  
(2002-04-04)
- D2: DE-A-196 15 021 (EWALD WITTE GMBH & CO KG)  
23 October 1997 (1997-10-23)
- D3: US-A-4 530 185 (TAKEDA YOSHIMITSU ET AL)  
23 July 1985 (1985-07-23)
- D4: US-A-4 585 981 (ZINTLER ALBERT) 29 April 1986  
(1986-04-29)
- D5: FR-A-2 730 714 (RENAULT) 23 August 1996  
(1996-08-23).

## 2. INDEPENDENT CLAIM 1

The present application does not comply with the requirements of PCT Article 33(1), because the subject matter of claim 1 is not novel within the meaning of PCT Article 33(2).

In fact D3, which is considered to be the closest prior art, discloses (cf. column 3, line 34 to column 4, line 54; figures 1 to 4) a motor vehicle comprising a closure element (1) and a device (4, 19, 28, 37) for controlling the shifting movement of the

closure element (1) by means of a shifting mechanism (4) fixed to the closure element (1), said device comprising all the features of claim 1 of the application:

see, in particular:

- the motor shifting mechanism (4, 28) is mounted on an inner panel (console) of the closure element (1);
- a transmission element (37) has a coupling zone (36) which is coupled to the shifting mechanism (4, 28); the transmission element (37) is additionally movably (hingedly) mounted (36) on a support console (inner door panel) to allow mechanical force transmission;
- a bearing zone (40, 41) of the transmission element (37) is movably mounted on the bodywork.

3. DEPENDENT CLAIMS 2-8, 16-30

Claims 2-8 and 16-30 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step, because they are either already suggested by the searched prior art or are conventional measures.

See, for example:

- D1 for claims 2-6, 17-21 and 25 (the motor-driven shifting device for adjusting the door opening force of gas pressure springs has all the technical features for the application of an automatic door opening operation;

- D2 (cable drive system is arranged on the vehicle closure element) for claims 2-3, 7, 8;
- D3 (drive with electromechanical coupling arranged on the vehicle closure element) for claims 16-23, 25;
- D4 (vehicle closure element drive with obstruction detection) for claims 26-30.

4. The combination of features in dependent claim 9 is neither known from, nor suggested by, the available prior art. A new independent claim containing all the features of claims 1 + 7 + 8 + 9 and claim 4 (for clarification of the significance of the coupling zone and its relationship to the deflection roller and for ensuring proper action) could have complied with the requirements of PCT Article 33(1).

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